

Equality Bill: Government Consultation on Introducing Multiple Discrimination Provision

RESPONSE BY EMPLOYMENT LAW COMMITTEE OF BIRMINGHAM LAW SOCIETY

Introduction

Birmingham Law Society represents over 2,500 solicitor members in 300 practices in Birmingham and the Greater West Midlands area. It has 13 specialist committees represented by its own council members, as well as co-opted members who contribute views from across the profession and associated organisations. Birmingham Law Society represents the views of practitioners acting for both employers and employees and represents the spectrum of legal practices in Birmingham including high street practitioners, sole practitioners, commercial firms and providers of in-house legal services.

This response has been produced by the Employment Law Committee of Birmingham Law Society ("BLS") on the following Consultation Paper:

Equality Bill: Government Consultation on Introducing Multiple Discrimination Provision

1. Question A

We do not agree with the conclusions set out in the Impact Assessment. We consider that the familiarization costs are grossly underestimated, both for SME's and large enterprises.

We do agree that there is a risk of unforeseen consequences in allowing multiple discrimination claims, which represents a significant change to the single strand model of discrimination.

We also agree that there will not be a significant increase in time spent at court or tribunal, as the evidence that will have to be presented by both Claimant and Respondent will remain broadly the same.

2. Question B

We agree that the process for identifying a comparator in a multiple discrimination case would be no more onerous than in a single strand case. However this makes the whole claim process more difficult due to the increase in the number of cases using a hypothetical comparator. Further, as the employment tribunal would be applying conclusions in a theoretical situation, this may lead to more appeals against the ET Judgment being lodged with the EAT.

3. Question C

Yes we agree.

4. Question D

Yes we agree.

5. Question E

Yes we agree.

Limiting multiple discrimination claims to two strands would be suggested, and claimants can still bring additional single strand claims of discrimination as alternatives to the two strand multiple discrimination claim.

6. Question F

We agree this approach is feasible but it will not work as often in practice, as for single strand discrimination claims.

7. Question G

We agree with the LGE's comments and this would be the approach the Birmingham Law Society would also take.

8. Question H

No.

9. Question I

Yes we agree that practical examples would be useful in guidance, and that websites are the best way to communicate the guidance, such as ACAS, BERR (Department for Business Enterprise & Regulatory Reform) and Directgov.

10. Question J

No a half day course would be more appropriate in our view.

11. Question K

Yes we agree, although we cannot confirm the percentage.

12. Question L

We agree that there would be an increase but are not sure of the percentage.

13. Question M

We agree that more cases would settle but are not sure of the percentage.

14. Question N

Businesses should be encouraged to consult with employees and provide them with non-discriminatory reasons for any business decisions or treatment of the employee.

15. Question O

See answer to question I.

16. Question P

Training on the new law would be required.

17. Question Q

There are likely to be more claims before the Employment Tribunals as Claimants will be claiming multiple as well as single strand discrimination claims, pleaded on the same facts as further claims or claims in the alternative.

We do not consider that it will be possible to reduce this risk if the proposed provision is introduced.

18. Question R

We agree with the LGE's comments in theory, although the benefits will not be confirmed until the provision is put into practice and tested.

19. Question S

We do not consider that there is a significant gap but the provision may possibly fill what has been described.